

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re Application of:)	PROTECTIVE PANTS, SUCH AS FIREFIGHTER'S
)	PANTS, WITH PUNCTURE-RESISTANT LAYERS
WILLIAM L. GRILLIOT et al)	AT BELOW-KNEE REGIONS OF LEG PORTIONS
)	
Serial No. 10/695,404)	Confirmation No. 5637
)	Group Art Unit 3765
Filed October 28, 2003)	Examiner Alissa L. Hoey

APPELLANTS' REPLY BRIEF

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Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the Examiner's Answer dated November 12, 2009, Appellant's submit the following reply.

REMARKS

The Examiner's Answer fails completely to show where or how Campbell shows or suggests "an outer layer of abrasion resistant material, the abrasion resistant material being less resistant to punctures than the puncture-resistant cloth fabric" recited in rejected claim 1 or "the material of the outer layers of the lower regions has a greater resistance to punctures than the material of the outer layers of the upper regions", as recited in independent claim 5. In this regard, the Examiner's Answer

attempts to brush over the indisputable fact that Campbell expressly states that both the tights and the soft material warmers can be "fabricated of standard garments materials", with absolutely no suggestion that one be made from one material and the other be made from a different material. Indeed, the express statement contained at column 4, lines 24-26 of Campbell is exactly the opposite of what is recited in the claims. The Examiner's Answer attempts to get by the failings of Campbell by asserting that "double" or "triple" layers of the material in Campbell would have greater resistance than a single layer of the material in Campbell. However, the claims recite that it is the material itself that is less or more resistant to punctures in the respective upper and lower regions, not that structures formed by **layering** the materials are more or less resistant to punctures. Accordingly, the Examiner's assertion regarding a double or triple layer of the material used to form the soft material bindings (55) is completely irrelevant to the structure recited in the claims and does nothing to establish a sustainable rejection. Campbell simply fails to show or suggest that the material of one region is more or less resistant to punctures in comparison to the material of another region.

With respect to claim 5, the Examiner also asserts that the Velcro fasteners (58,58b,59a,59b) could be considered a material of an outer layer of material as recited in independent claim 5, which is completely contrary to any fair reading of the claim, especially when taken in light of the specification. The Examiner then further makes the naked, unsupported assertion that the Velcro fasteners "would be more resistant to punctures than the upper material portions made out of a layer of cotton, spandex,

nylon or jersey fabric (48a,48b)". However, the Examiner has provided absolutely no evidence to support this naked assertion. Taken alone or together, these assertions are completely inadequate to support a sustainable rejection of independent claim 5.

Finally, it is noted that the Examiner's Answer does not address the arguments made specific to claims 2 and 6, claims 3 and 7, and claim 4 stated at pages 5 and 6 of Appellants' Brief.


In summary, each of the independent claims differentiates the material or cloth fabric of the lower region from the material of the upper region, and the Examiner's Answer fails to even assert that this structure is shown or suggested in the references. Instead, the Examiner's Answer focuses on differences in the number of layers used in each region, which does not have anything to do with the structure recited in the rejected claims.

In view of the foregoing, withdrawal of the rejections of all of the claims and allowance of the case is respectfully requested.

Respectfully submitted,

WOOD, PHILLIPS, KATZ, CLARK & MORTIMER

By



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January 12, 2010

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